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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,593	07/05/2001	Darryl V. Landvater	B06521-00007	4023
21918	7590	11/17/2005	EXAMINER	
DOWNS RACHLIN MARTIN PLLC			GRAYSAY, TAMARA L	
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P O BOX 190			ART UNIT	PAPER NUMBER
BURLINGTON, VT 05402-0190			3623	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/899,593	LANDVATER, DARRYL V.	
	Examiner	Art Unit	
	Tamara L. Graysay	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 October 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
 4a) Of the above claim(s) 13-40 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-12 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 05 July 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date (<u>1 page</u>). | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restriction

1. Claims 13-40 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.
Election was made **without** traverse in the reply filed on 03 October 2005.

Applicant's election of invention I, claims 1-12, in the reply filed on 03 October 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The examiner repeats herein that for purposes of the restriction requirement, claims 20-26 were treated as dependent upon claim 19, and claims 28-34 were treated as dependent upon claim 27.

Information Disclosure Statement

2. The examiner has considered the information disclosure statement submitted on 07 October 2005. However, the citations have been annotated to more accurately reflect the information considered by the examiner.

Drawings

3. The drawings are objected to because of the following:
 - a. They fail to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 530 (Fig. 14).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

5. The disclosure is objected to because of the following informalities:
 - a. The use of acronyms is acceptable, however, each should be spelled out at least at its first occurrence (MRP at page 6; TCP/IP at page 8).Appropriate correction is required.

Claim Objections

6. Claims 2 and 4 are objected to because of the following informalities:
 - a. Claim 2 reads, “said replenishment system generates a random number,” however, the specification (p.21+) and drawing (FIG. 13) disclose the financial planning system 400 as the element that generates the random number for each product via step 402.
 - b. Claim 4 reads, “said replenishment system uses said random numbers to determine an offset,” however, the specification (p.23) and drawing (FIG. 13) disclose the financial planning system 400 as the element that determines the offset date via step 403.

Appropriate correction is required.

7. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

Applicant's claim numbering has not been changed. However, claim 4 is separated from claim 2 by claim 3, which does not also depend from claim 2.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Huang (US-5953707).

Regarding claims 1 and 9, Huang discloses a forecasting system (production, sales, and inventory planning process) comprising a forecasting system (decision support system 10) for determining projected sales and a replenishment shipment system (vendor managed replenishment system 250, etc.). The vendor managed replenishment system includes determining shipment dates based on seasonal selling profile (replenishment data, seasonality factors, delivery frequency, operation parameters, e.g., replenishment frequencies at 33:30-67 and 36:1 to 37:58). Replenishment frequencies (and the mention of a replenishment schedule) of Huang inherently include determination of shipment dates and those shipment dates are based on the seasonal sales activity factors (column 33, for example).

Huang is not specific as to the volume of product that is used in the forecasting system. However, the vendor inputs sales data into the system, so the system would inherently accommodate low-volume products, i.e., low-volume sales data related to a particular product, because the reference includes sales data for all stocks or products.

Regarding claim 7 and 8, Huang performs the steps as recited when the system is implemented as described above.

Regarding claim 11 and 12, Huang is operable on a computer so it is inherent in Huang that the system includes a storage medium containing instructions to perform the method steps.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (US-5953707) as applied to claim 1, and further in view of Willemain (US-6205431).

Regarding claims 2 and 4, Willemain teaches generating a random number for each product (jittered lead time demand value calculated as a random selection of an integer 10:54+) and the random number is used to determine a product lead time (LTD). The examiner takes Official notice that lead time and shipping time are equivalent insofar as the product is available to the product vendor or retailer when the product is received.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Huang to include a randomization technique, such as suggested by Willemain, in order to use historical information provided by the vendor or retailer as a basis for determining the offset period or lead time.

Regarding claim 5, Willemain reference teaches a jittered lead time that includes both seasonal profile (the random number that is selected is based on historical or seasonal data) and randomization (the number is selected randomly).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Huang to include generating a random number drawing from historical

information provided by the vendor or retailer as a basis for determining the offset period or lead time.

10. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (US-5953707).

Regarding claim 3, Huang is silent as to the timing of shipment dates, i.e. more than one during a particular time period, however, Huang does indicate that the system forecasts the shipping frequencies or shipping schedule based on the vendor sales information. Thus it goes to follow that the shipping would accommodate the vendor sales information such that the particular time period or quantity of product is dependent upon the vendor sales information.

It would have been obvious to one of ordinary skill in the art to modify Huang to include different shipment dates within a certain time period when sales volume is low to avoid overstock, e.g. product that cannot be stored in an allotted space or product that will not be sold prior to its perish date.

Regarding claim 6, Huang discloses “stocks” which inherently includes a plurality of products. Huang generally refers to one contract for the vendor managed replenishment system. However, the examiner takes Official notice that a supply chain commonly includes an upstream supplier or manufacturer having more than one downstream vendor or retailer. Further, at the time the invention was made, an upstream supplier or manufacturer generally had a plurality of downstream vendors or retailers. The upstream supplier or manufacturer considered the supply (and associated manufacturing) needs of each of the vendors or retailers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Huang to include a plurality of downstream vendors or retailers in order to accommodate a supplier or manufacturer having more than one vendor managed replenishment contract.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Zellner (article, Time-series analysis, forecasting and econometric modeling) compares various forecasting and econometric modeling techniques.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



1/12/05
Tamara L. Graysay
Examiner
Art Unit 3623

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